

Benefit sharing in context

A comparative analysis of 10 land-use change case studies in Indonesia

Rodd Myers, Ashwin Ravikumar and Anne M Larson

Key points

- In the absence of robust national or subnational policies for benefit sharing, land-use change initiatives in Indonesia have developed their own approaches to distributing benefits. At the local level, support and capacity building are needed to strengthen intermediary institutions in order to improve governance and increase legitimacy when deciding how to share benefits.
- Nonmonetary benefits such as land tenure, capacity building, infrastructure and access to natural resources have been especially important. However, in some cases there are nonmonetary burdens associated with intended benefits.
- The legitimacy of benefit-sharing arrangements is determined more by the actors involved than the type of land-use change associated with them. Conservation initiatives, REDD+ projects and oil palm initiatives all exhibited both high and low levels of legitimacy in their benefit-sharing arrangements.
- The legitimacy of benefit-sharing arrangements can be compromised by the lack of broad consultation with local actors including customary authorities, lack of community control over access to land and limited livelihoods options for communities.

Introduction

Land-use decision making is inherently a multilevel process. Numerous actors¹ are involved, both directly and indirectly, representing multiple scales and sectors with different roles, interests and incentives. These include national and subnational governments, private firms, nongovernmental organizations (NGOs), communities, smallholders and organizations representing customary users. Land-use decisions may include the ways in which benefits are shared. These arrangements, be they formal or informal, embody the rules by which the benefits (and potential burdens) are to be shared among the multiple actors affected by the land use. Benefits can include monetary or nonmonetary compensatory or ongoing transfers according to costs (including opportunity costs) incurred or rights-based claims (Luttrell et al. 2013). They can be associated with many different types of forestry and land-use initiatives. In this brief, we analyze six case studies on

benefit sharing associated with initiatives that aim to reduce carbon emissions from land use, such as payments for environmental services, REDD+ and conservation areas; and four that aim to promote the production of oil palm crops, which may result in increased levels of carbon emissions. These cases were selected to capture a range of land-use change initiatives that reflect broader land-use change patterns of interest. The planting of oil palm has been an important driver of deforestation in West and Central Kalimantan and we therefore selected oil palm sites as case studies to understand multilevel governance dynamics and benefit-sharing arrangements in these contexts. The sites where initiatives aimed at reducing land-use emissions were already in place were selected based on interviews with key informants. The aim was to capture a mix of conservation, REDD+ and community forestry initiatives, and also to overlap with other Center for International Forestry Research (CIFOR) sites. Rather than being randomly or systematically selected to ensure generalizability to all land-use change in Central and West Kalimantan, sites were chosen based on the inputs of key informants in

¹ For ease of reading, acronyms have been used throughout the text. Table 1 defines these acronyms.

order to plausibly reflect the dynamics of important land-use changes in the region. We aimed to capture diverse governance dynamics around these land-use types, deliberately including multiple districts in each province.

While policy discussions are ongoing, Indonesia, like other countries, does not yet have a coherent benefit-sharing framework for REDD+ or environmental service arrangements. In the absence of a national or subnational benefit-sharing strategy, REDD+ projects have moved forward with *ad hoc* benefit-sharing arrangements, including those based on intergovernmental and voluntary sector-specific standards. This study examines the latter arrangements using oil palm cases. Benefit-sharing arrangements can be characterized as having lower or higher levels of legitimacy both in terms of procedure (the process of creating and maintaining the initiative) and outcome (the results or changes that occurred because of the initiative). Legitimacy refers to the democratic nature of decision-making processes and reflects opportunities for representation and participation, as well as the transparency of such processes (Beisheim and Dingwerth 2008). REDD+ depends on the quality of governance arrangements and the perceived equity of benefit sharing (Corbera et al. 2007; Pham et al. 2013), which puts the focus squarely on issues of legitimacy.

The purpose of this brief is to present key findings on multilevel governance and benefit-sharing arrangements linked to land-use change in Indonesia, based on data from CIFOR's Global Comparative Study on REDD+. The brief analyzes 149 interviews conducted in 2013 and 2014 with key informants involved in 10 land-use change initiatives in Central and West Kalimantan (see Table 1 for an overview of the cases). The cases include REDD+ projects, conservation initiatives, community-managed forests (both village forests – *hutan desa*; and community forests – *hutan kemasyarakatan*) and oil palm initiatives. After briefly discussing the benefit-sharing policy context at multiple levels, we turn to the cases, describing the different types of benefits associated with them. We highlight the importance of nonmonetary benefits. Some potential benefits from land-use initiatives can manifest as burdens for actors, including local communities, particularly when procedural legitimacy is lacking in the design of benefit-sharing arrangements. We find that the legitimacy of benefit-sharing arrangements varies considerably among initiatives that aim to reduce carbon emissions from land use or to support conservation, and we offer several possible explanations for this variation based on our data. The conclusions follow.

Benefit sharing in Indonesia

While REDD+ benefit-sharing and related policy discussions are ongoing in Indonesia, the precise approach to distributing benefits remains unclear. The REDD+

Agency² designed a general framework for a centralized funding mechanism, called Financing REDD+ Instruments in Indonesia (FREDDI). The planned REDD+ trust fund would also manage, distribute and mobilize funds through three REDD+ funding instrument modalities – grants, investments and payments for performance – that target stakeholders at different levels.

The Ministry of Environment and Forestry has also regulated³ financial benefit-sharing linked to carbon trading among government, developers and communities, depending on the type of management regime in place. The regulation provides a rough proposal for distributing financial benefits from carbon sales among these actors. It is currently under review by the Ministry of Finance. The management and flow of funds remain nebulous, as does precisely how benefits will be distributed among these groups of actors. Critically, the regulation fails to explain procedures in cases of conflicting land claims. In general, the benefit-sharing policy approach at the national level has been characterized as favoring project facilitators in order to incentivize actions on the ground and also as favoring benefit flows to the poor (Luttrell et al. 2013).

The Ministry of Agriculture has established another benefit-sharing policy specific to oil palm. Known as the *inti-plasma* system, this scheme regulates company–community partnerships, with smallholders in communities entitled to benefit from the cultivation and proceeds of 20% of the land under cultivation by oil palm companies. The company (known in this scheme as *inti*) is considered the nucleus of the operation, and smallholders engage in the partnership through a cooperative that represents them and their 20% interest in the plantation. In practice, there is considerable variation in how *inti-plasma* schemes are implemented, in terms of both the benefits communities actually receive and their perceived legitimacy. The types of technical support and inputs provided (such as training, seeds and fertilizer) and the level of community participation in decision making are not regulated and therefore vary widely from case to case.

At the provincial level, our findings suggest that REDD+ has developed rather differently in Central and West Kalimantan. In West Kalimantan, the provincial government has been involved in shaping REDD+ strategies, but most of the activities have been focused in a single district: Kapuas Hulu. The province has played a far more active

² The REDD+ Agency was a ministry-level body that reported directly to the President. It therefore served as a coordinating body but did not have the direct power to channel funds to REDD+ initiatives. In February 2015, it was merged into the Ministry of Environment and Forestry under the new Indonesian government.

³ Ministry of Forestry Regulation (MoF-R) 36 of 2009 on Procedures for Licensing of Commercial Use of Carbon Sequestration and/or Storage in Production and Protection Forests.

role in Central Kalimantan. Under the governor's leadership, Central Kalimantan was selected as the official REDD+ pilot province in 2010. Nevertheless, although a working group has developed a provincial REDD+ strategy, the province's ability to take advantage of emerging national and international elements of REDD+ has been limited. Key decisions related to REDD+ are taken at the national level, and the province has little influence. According to respondents, the division of powers and responsibilities between the national, provincial and district governments has generated tension and there are also concerns over which national ministry will be the focal point. While there is real interest in moving toward jurisdictional rather than project-based approaches to REDD+, it is still unclear how subnational governments can participate in REDD+ and receive funds. To date, local actors from customary groups and NGOs have participated through activities and projects implemented in the early phases of REDD+, but most of the funding has flowed to large organizations based on their capacity to meet application and reporting requirements that are assessed at the national level.

Types of benefits and burdens

In the absence of harmonized policy guidance on benefit sharing for REDD+ and other land-use initiatives, project implementers have developed *ad hoc* benefit-sharing arrangements on the ground through various processes. Many of the important benefits that have emerged are nonmonetary. It is important to note that in some cases there are burdens or costs related to these potential benefits, for example, with communities losing rather than gaining land tenure security and access to land and resources. In this section, we unpack the types of benefits and burdens found in the case studies. The net benefits and burdens of each case are shown in Table 1.

Direct monetary benefits

There were examples of direct monetary benefits for communities in oil palm, community-managed forestry, and conservation and REDD+ cases alike, but not in all individual cases. Community forestry and REDD+ cases included payments for environmental services, compensation for the use of community land and, in the case of PT CUS/JV, *plasma* payments, which should apply to the other oil palm cases by law as well.⁴ In the case of Landau Leban and PT CK1, these compensation payments have been a source of considerable concern for communities. They have resulted in significant infighting, corruption (through the interim head of village signing off on land transfers), and the formation of factions within

communities (especially in the Landau Leban case where family groups are in conflict over land-use payments). In PT CUS/JV, both compensation and *plasma* payments have been paid as planned, albeit with some minor delays. In the case of Kalimantan Forests and Climate Partnership (KFCP), the project paid direct monetary benefits to the communities for reforestation activities. Many women worked in the nurseries growing seedlings, as their other livelihood activities generally gave them more flexibility to do so. Some community respondents report accountability issues and social tensions that suggest the need to build community capacities to manage direct monetary payments. Where issues with payments are reported, respondents usually mention that, due to the lack of employment opportunities and other issues, such as restrictions on logging and the low price of rubber crops, the payments provided income at the household level that was beneficial. These payments are considered to be direct and input based because they depend on the number of seedlings planted. The number of seedlings planted served as a proxy for performance in terms of carbon and ecosystem services.

In oil palm initiatives, cash flows from the companies to the district governments in the form of fees, taxes and likely informal payments, according to local respondents. By comparison, REDD+ still offers little in the way of tangible benefits to district budgets.

Employment and livelihood support

Oil palm cases, conservation projects and REDD+ demonstration activities have all generated employment for local communities. In the cases involving REDD+, that is, community-managed forestry and conservation, some jobs were created by project-based payments for environmental services. For example, project funds were used to pay forest patrols and, while it operated, for reforestation in KFCP. The Bukit Baka-Bukit Raya National Park (TNBBBR) Authority offered reforestation jobs to local communities, but after a short time this offer was rejected and no such benefits are currently accepted by the communities (see Box 1). Only one person from the villages in the research area is employed by TNBBBR. Likewise, BOS Mawas has employed local people for forest patrols and other activities, but jobs are limited by available funding.

Several of the cases feature other types of support for community livelihoods. Bokal Kumuo and Laman Satong include seedlings and start-up capital for smallholders. Laman Satong also includes several livelihood activities for women, including providing start-up capital with the assistance of the local government. KFCP, Laman Satong, Bokal Kumuo and BOS Mawas provided livelihood support (e.g. equipment, materials and start-up resources such as chicks and seedlings) for rubber collection, agroforestry and fishing and, in several cases, microfinance.

⁴ The oil palm cases we included in the study tended to be relatively new. Payments to communities generally only commence after the first three years of operation when palms reach maturity and begin to produce commercially viable fruit.

Table 1. Community benefit-sharing characteristics of each case.

| Initiative | District/location | Type | Benefit summary | Burden summary |
|-------------------------------------------------------------------------------|---------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| CENTRAL KALIMANTAN | | | | |
| Kalimantan Forests and Climate Partnership (KFCP) | Kapuas | REDD+ | Jobs, livelihoods, training and capacity building; environmental services such as fire prevention; mapping and village land-use planning; support to propose village forests | Conflicts related to payments |
| Katingan Peatland Restoration and Conservation Project | Katingan | REDD+ | Environmental services, mapping, jobs and livelihoods | Early stages of establishment but potential loss of access |
| Borneo Orangutan Survival Foundation - Mawas Conservation Program (BOS MAWAS) | Kapuas and South Barito | Conservation | Jobs; credit union; financial, livelihood and environmental training; environmental services; teacher support | Reduced access to land, loss of livelihoods and reduced land tenure due to MoF policies |
| PT CK1 ^a palm oil company | Ex-Mega Rice Project | Oil palm | Compensation for land, access to equipment and support for land clearance | Reduced access to land, reduced farmland, reduced land tenure security, social conflict |
| PT CK2 ^b oil palm company | Ex-Mega Rice Project | Oil palm | Compensation for land, access to equipment | Reduced access to land, reduced farmland, reduced land tenure, social conflict, environmental degradation |
| WEST KALIMANTAN | | | | |
| Bukit Baka-Bukit Raya National Park (TNBBBR), Melawi District | Melawi | Conservation | Forest protected against loggers; temporary and minor jobs in the past | Reduced access to land, reduced farmland, reduced land tenure, social conflict over land and course of action |
| LAMAN SATONG village | Ketapang | Community forestry | Jobs, livelihood training, mapping, environmental protection, legalized access to land | Some reduced access to farmland through conservation |
| BOKAL KUMUO farmers association and community forest | Sanggau | Community forestry | Jobs, livelihood training, mapping, seedlings and equipment, environmental protection, legalized access to land | None |
| LANDAU LEBAN village | Melawi | Oil palm | Compensation for land, some access to equipment | Reduced access to land, reduced farmland, reduced land tenure, social conflict, environmental degradation |
| PT CUS/JV ^c palm oil company | Ketapang and Kayong Utara | Oil palm | Compensation for land, some access to equipment, jobs, profit sharing, school, teacher, livelihood training, water, road, electricity, church, mosque, scholarships, environmental protection | Loss of forest due to prior logging resulting in environmental and social tensions |

a Anonymized oil palm company #1.

b Anonymized oil palm company #2.

c PT Cipta Usaha Sejati and PT Jalin Vaneo are both companies owned by PT PAS (Pasifik Agro Sentosa) with adjacent oil palm concessions.

Box 1: Bukit Baka-Bukit Raya National Park

The boundary markers of the Bukit Baka-Bukit Raya National Park (TNBBBR) in Melawi District, West Kalimantan, were established in 1984. While there are varying accounts of how consultation with local villages was carried out, interviews with multiple actors suggest that the most likely scenario is that a meeting was held in 1985 in the district capital of Nanga Pinoh. Heads of villages were invited to this meeting and told that a nature reserve would protect the forest against logging concessions and illegal logging, which were expanding rapidly at the time. While the government has documentation showing that the signatures of village heads were obtained, respondents from the villages report that they were not meaningfully informed about the park and did not really consent to it. Today, villagers believe that the enforced park boundaries cut into their rubber plantation lands and compromise their access to natural resources.

To respond to villagers' complaints about the park, the government has offered monetary payments to compensate them for lost economic opportunities. However, villagers are largely opposed to accepting them, believing that taking such monetary benefits would legitimize the park's existence, which they reject in the first place. Instead, they want recognition of their customary land claims.

The decentralization process in Indonesia has largely left national parks centrally controlled by the Ministry of Environment and Forestry. As a result, district and subdistrict governments, which are more directly accountable to local populations that elect them, are not sufficiently empowered to present such local customary claims to higher authorities. In the absence of formal government representation of these claims, including the rejection of the proposed benefit-sharing arrangement, villagers have turned to indigenous rights NGOs to advance their claims and achieve their desired outcomes.

In PT CUS/JV, community members consider the number of jobs to be sufficient, although they note that community members have not yet been given management positions.⁵ In Landau Leban, the initiative has brought a limited number of jobs that the community perceives as being fewer in number and lower paid than promised. This pattern is also seen in PT CK2. PT CUS (not including PT JV for which records were not available) has 645 employees working in the plantation's permit area: only 76, plus a few dozen contractors, were hired locally from within the permit area. The company has a program in place to engage local community members in management. Data for PT CUS/JV were not available, but it is likely to have a higher percentage of local workers from within the permit area because PT CUS/JV do not yet require the highly specialized skills needed to operate a processing plant (see Box 2 for more information on PT CUS/JV).

Capacity building and technical assistance

KFCP undertook extensive capacity building in Central Kalimantan, with most efforts focused on provision of support to communities and some limited training of local NGOs. Laman Satong provided training on both forest management and entrepreneurship and livelihood activities (e.g. raising chickens), especially for women. Capacity building in Bokal Kumuo was at an early stage at the time of the research but mostly involved business planning for the cooperative and forest management, while agroforestry training is planned.

PT CUS/JV provided substantial training to local community members on several issues pertaining to agricultural production (non-oil palm), fishery management, financial

management and entrepreneurship. This was in addition to capacity building, required for working for the plantation or managing the cooperative.

Infrastructure and equipment

Infrastructure development is strongest in PT CUS/JV, where assistance for electrical generators, schools, places of worship, water supply and roads are on offer. No other case in our study involved a comparable amount of infrastructure support. For example, Landau Leban has only constructed a road that the company needs to transport its harvest. In other oil palm cases, such as PT CK2, existing government-built roads are used for transportation and respondents reported that neither communities nor the government have yet benefited from any infrastructure developments.

The oil palm companies have both heavy machinery and industrial facilities. In some of the hamlets in Landau Leban, community leaders are given access to the company truck, which they use to pick up supplies from town. The road does not yet go all the way to the hamlets, but large amounts of provisions can at least be moved nearer, from where community members can transport them on foot or by motorbike. In PT CUS/JV, the company has a system of accepting formal requests from communities to have access to heavy equipment from any company facility. All such requests have been granted so far. This has enabled communities to develop roads, bridges, flood control and public spaces that they could not have done without such equipment.

Land tenure and access

None of the land-use cases studied in this research can be said to have increased land tenure security for customary land, although mapping and other activities aimed at

⁵ The companies have developed a training plan to address this issue and state that it is normal in the early stages of development.

doing so were provided by KFCP. KFCP, Laman Satong and Bokal Kumuo all aimed to increase land management rights for local users, although these rights are temporary and subject to the conditions set by the respective district forestry departments.

In some cases, land management rights might come at the expense of land tenure over the long term. Community-managed forests – village forests (*hutan desa*) and community forests (*hutan kemasyarakatan*) – are managed under 25-year use and management permits. Several observers from customary user groups and NGOs noted that communities may compromise their customary rights over the land by accepting management permits from the government (to an area that may or may not include the entirety of their customary claim), rather than claiming ownership rights over all of their customary land. However, the issuance of community forestry permits in Indonesia depends on local people having an established presence on the land, and until customary forest laws are finalized, communities have few other options for securing legal access rights to forestlands, fragile as these rights may be.

The voluntary Roundtable on Sustainable Palm Oil (RSPO) standards do not require clear and secure tenure for local people, but do require uncontested land use. Nesadurai (2013) suggests that these RSPO standards may be more effective than local governments in addressing land conflicts. We find support for this in the PT CUS/JV case, where prior conflicts among communities have dissipated as common ground has been found through a mutual interest in oil palm production. At the same time, some respondents familiar with the PT CK2 case reported that compliance with RSPO relied on reports by consultants paid by the company, and that these reports did not fully represent community perspectives. Indeed, given the number of oil palm-related land conflicts in West Kalimantan, the PT CUS/JV case is atypical for the sector (see Colchester et al. 2006; Sirait et al. 2011; Colchester and Chao 2012). In Landau Leban, PT CK1 and PT CK2, land tenure issues were aggravated by the prospect of growing oil palm, stimulating significant conflicts over land that remain unresolved.

Our case studies reveal an important trade-off between short-term land-management and land-use rights and long-term land tenure security, illustrated most clearly by the oil palm cases. Such trade-offs are also relevant for REDD+, to the extent that REDD+ activities will involve communities gaining access, use and management rights, but not necessarily full ownership of customary lands. While communities such as those in Landau Leban have no legal title to their lands, there are broad constitutional assurances that customary land rights will be respected.⁶ In PT CK1 and PT CK2, some community members have legal titles, but even when these titles are formally registered

with the National Land Authority, the communities nevertheless have a weak negotiating position vis-à-vis the company. When the communities signed contracts with the oil palm companies in these cases, they consented to the inclusion of lands they considered to be theirs in the company's permit area for oil palm activities. According to law, the land is to be handed back *to the State* once the permit has expired. Although the legal status of some communities' land tenure was uncertain prior to such deals, in cases in which it was not, the establishment of the permit area puts boundaries around the land that were not there before. This may make it difficult to achieve full inclusion of customary and other lands in future bids for full land ownership. The implications of this for community land rights are not clear.

Furthermore, in the West Kalimantan oil palm cases, forest areas that were part of the national forest estate (*kawasan hutan*) were reclassified as non-forestland (*Area Penggunaan Lain* – APL), which permits private ownership. This in effect commodifies the land and changes the way property rights are considered. While this change in classification could permit local community members to obtain land titles, it also opens the door for third parties – such as private firms – to acquire the land. This is a particularly tenuous position for communities that are relatively ill-equipped to negotiate the bureaucratic hurdles involved in obtaining land titles.

Similar issues exist in the conservation and REDD+ cases as well. In the community-managed forest cases, communities can propose the site of the initiative area based on their priorities and needs. However, they are still required to accept the resulting boundaries between their village and the national forest estate (*kawasan hutan*), as well as the forest boundaries themselves. At the same time, community-managed forestry permits can effectively enable communities to protect the land against competing uses by other actors. The communities may also wish to gain access to government and other support, for example, to rehabilitate degraded areas or for agroforestry and tourism, which is more easily done with formalized management rights. Nevertheless, for a variety of legal reasons, the Ministry of Environment and Forestry retains statutory land tenure in all State forests, with communities holding only use rights. Still, as one respondent in a licensed community forest commented, formal usage rights are “better than nothing.” Indigenous activist groups are concerned at the failure of these access rights to fundamentally address customary land claims.

Access to natural resources and environmental services

Bokal Kumuo and Laman Satong are designed to give communities better access to natural resources and environmental services, including by maintaining and increasing the conservation value of protected areas to

6 At least in principle, under the Basic Agrarian Law (5) of 1960.

provide water resources and access to customary forests. In forest areas under community management that are in production forests (as designated by the Ministry of Environment and Forestry), there may be additional income opportunities through harvesting timber, but a number of questions remain about the conditions under which trees can be felled. In some ways, the formalization of access through community-managed forest permits makes customary (often 'illegal') access more difficult, as the State retains the right to revoke management permits for both community-managed and village forests for noncompliance with the law.

In the TNBBBR case, community access to natural resources (and land) has been severely curtailed by the appropriation of customary land by the national park (see Box 2). Other cases provide examples of reduced access to natural resources even when land tenure has not changed. For example, in Laman Satong, the community made a calculated decision to exclude farming activities in a forest protection zone, which was a condition for obtaining village forest status from the district government. In other conservation and REDD+ projects, community members reported restricted access to forests for conservation purposes. These restrictions included access to non-timber forest products, bush meat, fish, and products used for construction, food and medicine.

Oil palm cases highlight natural resource losses for communities, which are closely tied to reduced access to land. There are often immediate benefits to establishing oil palm plantations, including companies compensating communities for land through sale or lease or allowing community members to collect logs felled during the clearing process. However, these benefits come at the cost of long-term exclusion from the land. Again, the major exception among the oil palm cases is PT CUS/JV, where community members identified not the oil palm company but the logging company that came before it as the entity that reduced access to forest resources. After the logging companies finished their operations, the land was "left as dust," as one leader phrased it. By contrast, respondents from multiple groups involved in the PT CUS/JV case reported that the oil palm has been planted on degraded lands, potentially sequestering carbon, and the company has explicitly avoided deforestation in areas of high conservation value.

Factors influencing the legitimacy of benefit-sharing arrangements

As seen above, while land-use change has brought benefits, it has also generated burdens and costs. Many of these benefits and burdens are nonmonetary. Across the cases studied, there was considerable variation in *how* these benefit-sharing arrangements were developed and

the extent to which they are considered legitimate by affected stakeholders. Analysis of interview data suggests that the legitimacy of benefit-sharing arrangements varies both between and within initiative types. Our findings suggest that the characteristics of communities, initiatives, implementing actors and policies interact to determine the legitimacy of benefit-sharing arrangements, be they conservation, REDD+ or oil palm initiatives.

In particular, our findings suggest several likely explanations for how these factors affect legitimacy. First, the inclusion of customary authorities in decision processes contributed to legitimacy. Second, communities with better access control and common property management principles were better positioned to negotiate the design of benefit-sharing arrangements, bolstering their legitimacy. Third, communities with more resilient livelihood strategies, including access to markets and infrastructure, have more leverage in decision-making processes. In other words, these communities have viable alternatives to proposed land-use changes. Given the importance of these factors, our research shows that policies supporting equitable benefit sharing do not guarantee legitimate benefit sharing in practice, as local and institutional variables play a very important mediating role.

More inclusion of customary committees improved legitimacy, but overreliance on representatives can compromise it

Many Indonesian villages have customary (*adat*) leadership structures that operate in parallel to statutorily elected leadership, as was the case for the villages included in this study. *Adat* leadership committees have different levels of influence and power in each village and differ in terms of levels of consultation with the broader communities. *Adat* institutions can prove effective in influencing determinations of 'fairness' within local communities, which is often framed in the context of inheritance and lineage rather than present-day material equity. Those cases in which community respondents perceived the initiatives as highly legitimate involved broad consultation with villagers, including – but not exclusively – through *adat* institutions. These broad-based consultations were achieved by conducting several general meetings and ensuring door-to-door socialization of the proposed land-use change, providing ample opportunity for now-informed community members to participate in the land-use decisions. Others have also found that companies that provided substantial benefits to the villages involved in oil palm plantations engaged in high levels of consultation and participation with communities (see Colchester et al. 2006; Colchester and Chao 2012; Paoli et al. 2014).

However, this does not suggest that all *adat* leaderships automatically represent the interests or encourage the participation of the broader community. In other cases,

village leaders made decisions without widespread community consultation. In general, we found that overreliance on representatives (*adat* leaders or otherwise) without broader consultation with local people can compromise the legitimacy of benefit-sharing arrangements. Several of the land-use changes included in this research were legally legitimate in terms of following the rule of law, but there was widespread discontent and a perception of the process's illegitimacy among community actors. In several cases this can be explained by overreliance on the communities' representatives (usually the head of the village). Although democratically elected, these representatives failed to represent the communities' best interests and to involve community members in decisions that affected them.

Even among some of the most safeguard-sensitive project proponents, it has been difficult to achieve the objectives of free, prior and informed consent (FPIC). Projects can at times struggle to address the basic principles of community consultation. These processes were lacking to various extents in the TNBBBR (national park) case in West Kalimantan, some of the oil palm cases and at times in the REDD+ cases. In the Landau Leban case, respondents reported direct financial benefits for representatives that supported the initiative, including those who allegedly received payments per signature for approvals. In TNBBBR, it was unclear what motivated leaders to agree to the creation of the park, but the decision was widely contested among villagers.

Communities with more control over access and better common property management regimes played stronger decision-making roles

Ribot and Peluso (2003) examine gaining, maintaining and controlling access, which they define as the "ability to benefit from things." Control over access has to do with the ability to make decisions around resources. Peluso and Lund (2011) describe land control as "practices that fix or consolidate forms of access, claiming, and exclusion for some time" (p. 668). None of the cases in this study featured local users who controlled access, which from a land-use perspective would likely include a formalized land title. The community-managed forests involve only management permits that are issued by the provincial or district forestry department. The forest remains part of the State forest despite the existence of customary use and ownership among local communities (this has been successfully challenged in the Constitutional Court, but the ruling has not yet changed the legal status of forests on the ground). Nevertheless, laws pertaining to village- and community-managed forests make provisions for communities to take decisions on how they will manage the forests. These provisions include decisions about what areas of land are used for what purposes, how the cooperative or village will access markets, how land will

be divided among members and how benefits will be shared. Although this does not give full control over access, because it is subject to fairly robust oversight by the government and stops short of recognizing tenure, community members feel a sense of control and are less concerned by the legal limitations and lack of full ownership. In these cases, there is a level of access that some communities perceive as sufficient, at least at the early stages of the benefit-sharing arrangements.

Similarly, the PT CUS/JV case features broad community consultations in which *plasma* parameters are set; however, as one government official put it, the community had 'ultimate control,' to accept or reject the oil palm development at the beginning. The companies were especially careful to consult not only village leaders, but also a broader population of community members before making any changes to land use. These consultations provided ample opportunity for communities to participate in decision making, which enabled them to assume a position of control, at least prior to implementation. Community members recounted instances in which they disagreed with the company on a proposed plan and reached a satisfactory compromise through discussion. The community does not sit in on management meetings and is not a managing partner in terms of the company's operational management, but communities do have the perception of being in control simply because they participate in ongoing decisions that affect them.

The abovementioned cases stand in stark contrast to those of Landau Leban oil palm and TNBBBR. In these cases, according to interviews with community members and leaders, local and national government officials and company representatives, the company and the park administration respectively are clearly in control and have provided the communities with virtually no sense of ownership of the process or ongoing management. In these cases, 'participation' is entirely limited to cursory socialization meetings and the community has an antagonistic relationship with the company and the park management.

To some extent, participation and control over access may be facilitated by stronger common property management regimes. Even within the same land-use change case, communities where land is held communally tended to have greater community solidarity and were not easily coerced into suboptimal benefit-sharing arrangements with the government and companies. In Landau Leban, the hamlets within the geographically dispersed village had different types of property regimes. These included individual legal certificates, individual customary land with clear boundaries, collective land that is subdivided according to customary processes, and fully collective land. The communities with only legal certificates and

Box 2: PT CUS/JV

PT Cipta Usaha Sejati (CUS), PT Jalin Vaneo (JV) and PT Jalin Vaneo II (JV2) (collectively referred to as PT CUS/JV) are palm oil companies owned by PT Pasifik Agro Sentosa (PAS), based in Jakarta. PT PAS is an agribusiness with the slogan “go sustainable forever” and driven by “planet, people, and profit.” PT CUS/JV have adjacent HGUs (Usage Permits) covering 30,809 ha in the Kecamatan Simapng Hilir Subdistrict and the Koyong Utara and Ketapang Districts. The area was logged extensively from 1978 to the early 2000s by several logging companies, which targeted primary forest and “left dust” as one community leader described it. By the time the HGUs were issued to PT CUS and PT JV, most of the land in the concession had been logged. Prior to this, communities were highly forest dependent. They engaged in commercial activities to buy “sugar and cigarettes,” which included selling rubber latex and rattan cane, but depended greatly on the forest to gather fruits and herbs and for basic food requirements. At that time they had no road access and it could take several days to reach the nearest town by boat.

After arriving, the company undertook an extensive participatory process with clear expectation setting. According to community respondents, this was critical for establishing trust between local people and the company and for imbuing the process with a sense of fairness. The level of trust between the community and the company is such that the communities are more inclined to discuss local problems with the company than with the subdistrict government. Indeed, the company has been performing some of the local government’s functions in practice, including land-use planning. Multiple benefits, including *plasma* payments, capacity building and training, employment, scholarship assistance, and infrastructure began to accrue once the company began its activities, further strengthening the good relations between local communities and the company.

Conversely, relationships between the company and some government departments are actually strained over the company’s commitment to maintaining 32% (9,775 ha) of the permit zone as a conservation area. This relates to the legal issue that the HGU must include activities for which it was approved and must be productive. Because the permit area must be used for approved productive activities, and conservation is not considered a productive activity, maintaining the conservation area puts the company at risk of losing that land to the district. Respondents suggested fears that the district and/or Land-Use Agency (PBN) are not committed to conservation activities, and might therefore allocate these lands to a company willing to develop them. There is significant discussion on this among government departments, most of which agree with the principle but are bound by law.

individualized land were the first to sell their land to the companies. By contrast, those with collectively-managed land were far more recalcitrant when it came to striking deals with the company. Respondents from these communities credit the strength of their resistance to their communal land and solidarity among community members. They refer to the land as “our forest,” while respondents from the other communities referred to it as “land” or “my land.”

This type of solidarity based on communal land management is similar to what was found in the villages around TNBBBR, where villagers made frequent reference to “our forests” and “our way of life,” while several of the villages that have contracted to companies do not use this kind of collective language. This is not to say that communities with high degrees of solidarity do not make agreements with companies and the government. In the PT CUS/JV case, all villages within the concession area have made agreements with the companies, but have done so without conflict and with careful consideration. While Landau Leban continues to have dissenters, PT CUS/JV empowered deliberate dialogue among communities so they could make an informed decision. This land was communally held, and was an area that was previously forest and had become wasteland after logging activities.

Communities with more resilient livelihood strategies, including access to markets and infrastructure, had more leverage in decision-making processes

Even in cases where communities had some influence over decision making in theory, their options were often constrained by a lack of alternative livelihood options. This compromised the legitimacy of the land-use initiatives because communities may have accepted land-use change initiatives largely due to a lack of other viable livelihood alternatives. In Landau Leban, gold panning is becoming increasingly difficult and rubber prices are on the decline. In PT CUS/JV, the forests had already been destroyed, making it hard for communities to continue their way of life as they knew it. In Central Kalimantan, the Mega Rice Project had severely degraded the productivity of land in Central Kalimantan. In West Kalimantan, the establishment of village and community forests was motivated by the threat of encroachment by oil palm operations; and the designation of forest management rights was regarded as a means of protecting communities against loss of livelihood. In all of these cases, the communities accepted land-use initiatives that bolstered their livelihoods. In contrast, the hamlet of Bunyau near the Landau Leban oil palm plantation has always had full access to its natural resources. Despite some conflicts and boundary issues relating to the neighboring village, Bunyau feels that its

land or way of life are not threatened as long as they stand together in solidarity to protect it. They have little motivation or need to settle for the company's terms. These cases demonstrate the importance of livelihoods and natural resource access in determining the legitimacy of benefit-sharing arrangements.

Conclusions

As comprehensive policies that govern benefit sharing linked to various land-use initiatives in Indonesia remain elusive, benefit-sharing arrangements have emerged around such initiatives on an *ad hoc* basis. To date, nonmonetary benefits have been extremely important. Some of these potential benefits, such as land tenure and access to natural resources and environmental services, are not always realized. Instead, in some cases, local communities face costs and bear burdens such as loss of land tenure security, internal conflicts, local environmental degradation and loss of access to natural resources. The legitimacy of benefit-sharing arrangements and land-use initiatives in general appears to be linked to the degree to which they generate benefits or burdens, as well as the processes involved in making decisions.

Our findings suggest variation in the legitimacy of benefit-sharing arrangements within all categories of land-use initiatives. While three of the four oil palm projects were highly conflictive and perceived as illegitimate by local people, the PT CUS/JV case stands out in marked contrast. Meanwhile, one conservation land-use initiative was marked by serious legitimacy problems. Communities around the TNBBBR (national park) accepted neither the park's expansion nor offers of cash compensation from the government. Instead, they wanted recognition of their customary land claims.

Based on the evidence presented above, it seems that other factors beyond just the type of land-use initiative shape the legitimacy of benefit-sharing arrangements. In general, broad-based consultations with local actors, including customary leaders, appear to be critical. At the same time, actors implementing land-use initiatives should take care not to rely too heavily on 'representatives,' as there is no substitute for broad and direct consultation. In addition, community-level variables seem to affect communities' ability to participate in the design and implementation of benefit-sharing arrangements, and indeed offer genuinely 'free' prior and informed consent. Actors implementing initiatives should be particularly mindful of the degree to which local communities actually have access control over their lands, and also the extent to which they have alternative livelihood options that would preclude implicit coercion to accept deals with projects. Although discourse around community participation in land-use decision making is now commonplace in the

implementation of REDD+ projects, our findings reveal the need to carefully consider the complexities related to what this consultation means and how free communities are to contest the proposed undertaking.

Acknowledgments

The authors gratefully acknowledge the Norwegian Agency for Development Cooperation and the European Commission for providing funding for this research. We thank Anna Sanders and Rut Dini Prasti H. for their essential field work, input and comments. We also thank the following individuals for their valuable comments and reflections on earlier drafts of this brief: Grace Wong, Cecilia Luttrell, Moira Moeliono, Daju Resosudarmo, Christine Padoch, Yunus Yumte, Myrna Safitri, Ujjwal Pradhan, and Laura Graham. We are also grateful to all respondents for generously sharing their time and expertise with us. This research was also supported by the CGIAR Research Program on Forests, Trees, and Agroforestry with financial support from the CGIAR Fund.

References

- Beisheim M and Dingwerth K. 2008. *Procedural legitimacy and private transnational governance: Are the good ones doing better?* SFB-Governance Working Paper Series, No. 14. Berlin: Collaborative Research Center (SFB) 700.
- Colchester M and Chao S, eds. 2012. *Conflict or consent? The oil palm sector at a crossroads*. Bogor, Indonesia: Forest Peoples Programme, Perkumpulan SawitWatch and Transformasi untuk Keadilan Indonesia.
- Colchester M, Jiwan N, Andiko, Sirait M, Firdaus AY, Surambo A and Pane H. 2006. *Promised land: Palm oil and land acquisition in Indonesia - implications for local communities and indigenous peoples*. Bogor, Indonesia: Forest Peoples Programme, Perkumpulan Sawit Watch, HuMA and the World Agroforestry Centre.
- Corbera E, Brown K and Adger WN. 2007. The equity and legitimacy of markets for ecosystem services. *Development and Change* 38:587–613.
- Luttrell C, Loft L, Gebara MF, Kweka D, Brockhaus M, Angelsen A and Sunderlin WD. 2013. Who should benefit from REDD+? Rationales and Realities. *Ecology and Society* 18(4):52.
- Nesadurai HES. 2013. Food security, the palm oil–land conflict nexus, and sustainability: A governance role for a private multi-stakeholder regime like the RSPO? *The Pacific Review* 26:505–29.
- Paoli G, Schweithelm J, Gillespie P, Kurniawan Y, Aurora L and Harjanthi R. 2014. *Best Management Practices in the Indonesian Palm Oil Industry*. Bogor, Indonesia: Daemeter Consulting.
- Peluso NL and Lund C. 2011. New frontiers of land control: Introduction. *Journal of Peasant Studies* 38: 667–81.

Pham T, Brockhaus M, Wong G, Dung L, Tjajadi J, Loft L, Luttrell C and Mvondo SA. 2013. *Approaches to benefit sharing: A preliminary comparative analysis of 13 REDD+ countries*. Working Paper No. 108. Bogor, Indonesia: Center for International Forestry Research.

Ribot J and Peluso NL. 2003. A theory of access. *Rural Sociology* 68:153–81.

Sirait M, Witsenburg K, Ros M, Kusters K, Wösten H, Snelder D, Nijpels R and van Sluijs P. 2011. *Towards Participatory Land-use Planning in West Kalimantan, Indonesia*. Amsterdam: Both Ends.

This info brief is part of a series of reviews on existing literature and practices to derive relevant lessons for the design of REDD+ benefit sharing mechanisms. The reviews aim to stimulate debate on balancing effectiveness and efficiency, while ensuring equity in ongoing policy processes in the development of REDD+ as a performance-based mechanism.



RESEARCH
PROGRAM ON
Forests, Trees and
Agroforestry

This research was carried out by CIFOR as part of the CGIAR Research Program on Forests, Trees and Agroforestry (CRP-FTA). This collaborative program aims to enhance the management and use of forests, agroforestry and tree genetic resources across the landscape from forests to farms. CIFOR leads CRP-FTA in partnership with Bioversity International, CATIE, CIRAD, the International Center for Tropical Agriculture and the World Agroforestry Centre.



cifor.org

blog.cifor.org



Center for International Forestry Research (CIFOR)

CIFOR advances human well-being, environmental conservation and equity by conducting research to help shape policies and practices that affect forests in developing countries. CIFOR is a member of the CGIAR Consortium. Our headquarters are in Bogor, Indonesia, with offices in Asia, Africa and Latin America.

